

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

VERONICA KARIUKI,

Plaintiff,

v.

ETeAM, INC.,

Defendant.

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Case No. 1:15-cv-00934-TSE-JFA

**DEFENDANT ETEAM, INC.'S MEMORANDUM IN SUPPORT OF ITS
MOTION TO STRIKE PLAINTIFF'S EXPERT DISCLOSURES AND
EXCLUDE PLAINTIFF'S EXPERTS OR, ALTERNATIVELY,
DEFENDANT'S MOTION TO COMPEL**

Defendant eTeam, Inc. ("eTeam"), by counsel, Carr Maloney P.C., and pursuant to Rules 16(f) and 37 of the Federal Rules of Civil Procedure and Local Civil Rules 7, 26, and 37, submits this Memorandum in support of its Motion to Strike Plaintiff's Expert Disclosures and Exclude Plaintiff's Experts, or Alternatively, Defendant's Motion to Compel, and states as follows:

I. BACKGROUND

Pursuant to this Court's Rule 16(b) Order dated October 13, 2015, Plaintiff was required to file her initial expert disclosures by November 16, 2015. *See* Dkt. #9. On November 16, 2015, Plaintiff filed her Expert Witness Disclosure, in which she identified eight expert witnesses to be called at the trial in this matter. *See* Dkt. #12. The report of only one of Plaintiff's eight designated experts (Joseph Migliozi) accompanied her disclosure. *See id.*

On December 31, 2015, eTeam's counsel emailed Plaintiff's counsel requesting that Plaintiff provide the reports for the seven expert witnesses whose reports were not produced in

conjunction with Plaintiff's Expert Witness Disclosure.¹ See Exhibit 1. On January 4, 2015, eTeam's counsel again emailed Plaintiff's counsel reiterating its request for written reports of Plaintiff's experts. See *id.* To date, Plaintiff still has not produced written reports of the following designated experts: Dr. Sumitra Easwaran; Dr. John Lee; Dr. Rajeev Verma; Julia Isaacs; Regina McCombs; Dr. John Youk; and Dr. Sheena Abraham.

II. ARGUMENT

Rule 37(b)(2) of the Federal Rules of Civil Procedure ("FRCP") provides that if a party fails to obey an order to provide or permit discovery, including an order under FRCP 16(b), the Court may issue further just orders, which may, *inter alia*, prohibit the disobedient party from supporting or opposing designated claims or defenses or from introducing designated matters in evidence, strike pleadings in whole or in part, or stay further proceedings until the order is obeyed. See Fed. R. Civ. P. 37(b)(2).

Pursuant to this Court's Rule 16(b) Order, Plaintiff was required to file her initial expert disclosures by November 16, 2015. See Dkt. #9. FRCP 26(a)(2)(B) provides that this disclosure "must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case[.]" See Fed. R. Civ. P. 26(a)(2)(B). The Rule then sets forth various information that must be contained within the report. See *id.*

Plaintiff has failed to comply with this Court's Rule 16(b) Order because she has failed to produce the written reports of seven of her eight disclosed witnesses: Dr. Sumitra Easwaran; Dr. John Lee; Dr. Rajeev Verma; Julia Isaacs; Regina McCombs; Dr. John Youk; and Dr. Sheena

¹ Plaintiff has failed to produce the written reports for the following designated experts: Dr. Sumitra Easwaran; Dr. John Lee; Dr. Rajeev Verma; Julia Isaacs; Regina McCombs; Dr. John Youk; and Dr. Sheena Abraham.

Abraham. *See* Dkt. #12. Plaintiff, by not submitting the written reports of her experts, has delayed eTeam from adequately preparing for trial.

III. CONCLUSION

For the foregoing reasons, Defendant eTeam, Inc. requests that this Court strike the following experts from Plaintiff's Expert Disclosure and exclude their expert testimony at trial: Dr. Sumitra Easwaran; Dr. John Lee; Dr. Rajeev Verma; Julia Isaacs; Regina McCombs; Dr. John Youk; and Dr. Sheena Abraham. In the alternative, Defendant eTeam, Inc. requests that this Court order Plaintiff to produce written reports for the aforementioned experts and stay further proceedings until Plaintiff do so.

ETeAM, INC.
By counsel

CARR MALONEY P.C.

/s/ Tina M. Maiolo

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was electronically filed this 8th day of January, 2016 and served electronically upon:

J. Andrew Baxter
Merritt J. Green
Connie M. Ng
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/s/ Tina M. Maiolo

Tina M. Maiolo